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NOTE BY THE SECRETARIES

to the

JOINT CHIEFS OF STAFF

on

STATE-DEFENSE-JCS AD HOC WORKING GROUP REPORT ON
POSSIBLE COURSES OF ACTION ON BERLIN (U)

1. The enclosed State-Defense-JCS Working Group Report on Possible Courses of Action on Berlin is referred hereby to the J-5 for comment and recommendation.

2. SM-956-58, dated 26 November 1958, is hereby canceled.

H. L. HILLYARD,

J. O. COBB,

Joint Secretariat.

cancel. See n/h dated 12-23-58

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ENCLOSURE

REPORT BY STATE-DEFENSE-JCS WORKING GROUP REPORT

on

POSSIBLE COURSES OF ACTION ON BERLIN

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Enclosure

POSSIBLE COURSES OF ACTION ON BERLINDISCUSSION:

Given the present state of our knowledge of Soviet intentions and Allied public opinion, it is necessary to begin with certain basic facts or realistic assumptions in assessing the various possible courses of action available to the Western Allies in meeting the new Soviet threat to Berlin. These are:

1. There is a broad measure of agreement between the three occupying powers and the Federal Republic that we must remain in Berlin to keep the population of the three Western sectors from being starved by blockade or brought under Communist domination.
2. The Soviets will probably move ahead by relinquishing their control functions at the Nowawes and Marienborn checkpoints on the Autobahn and at the Marienborn checkpoint on the rail line used by the military trains going to and from Berlin. They will probably attempt to substitute GDR controllers in the Berlin Air Safety Center, and they will probably close their Kommandature headquarters in East Berlin thus eliminating the principal Western working level contact with the Soviets. Conversely, at least at the outset, there will probably be no action taken by the GDR to limit or harass German traffic between Berlin and the Federal Republic which for years has been subject solely to East German controls. Thus the initial problem is likely to be limited to the supply and travel of the Western military occupation in Berlin, with the exception of civil aircraft operations which would be confronted by the lack of Soviet guarantees of flight safety which the withdrawal of Soviet controllers and the refusal to admit GDR controllers into the Air Safety Center would bring about.

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3. Allied contingency plans first formulated in 1954 which contemplate limited dealings with GDR officials at the checkpoints have come in for general criticism from officials of the Federal Republic and our own Embassies in Europe as starting us off on a slide down a slippery slope.

4. Expectancies have been created all over the world that the Allies will launch an airlift on a scale required by the specific needs of the situation. In the absence of a decision to resort to force, any decision not to mount an airlift, even if only a token one, would be interpreted as indicative of Allied unwillingness to make a real expenditure of their resources and effort to remain in Berlin.

5. There will be extreme reluctance on the part of the British and probably the French, as well as among at least some other NATO countries, to approve the use of force to maintain our land communications with Berlin rather than deal with GDR officials at the checkpoints. This is implicit in the British paper submitted to us and the French as a basis for discussion. Ambassadors Whitney and Houghton have jointly (Paris Telegram 1919 to Department) expressed their doubt that British and French opinion would support armed Allied action to force road access as a result of an effort by the GDR to impose acceptance of GDR travel documentation.

6. Sentiment seems to be building up in favor of a proposal for a four-power meeting with the Soviets. (This has been recommended by our Ambassadors in Moscow, London, Paris, and by General Norstad.) Chancellor Adenauer has also indicated to us that it will be desirable, even necessary, for the three occupying powers in Berlin and the Federal Government to meet at an unspecified level when the Soviets announce their

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- Tab A - Recommended Course of Action
- Tab B - Withdrawal of Soviet Personnel from Railway and Autobahn Checkpoints and Current Contingency Plans
- Tab C - Resort to Force to Maintain our Communications with Berlin
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- Tab E - Legal Aspects of Soviet Renunciation of Responsibility
- Tab F - Military Implications of Allied Assumption of Soviet Obligations for Allied Access to Berlin
- Tab G - Prospects for Negotiation with the USSR Regarding Germany

RECOMMENDATIONS:

1. The United States should make a serious effort to obtain reconsideration by the British and French of outstanding contingency plans with a view to eliminating all dealing with GDR officials at the Autobahn and railway checkpoints. Our Embassy in Bonn should be instructed to raise the subject on an urgent basis with the British and French. (This will require that we have an alternative course of action to propose acceptable to the British and French.)
2. Urgent consideration be given to obtaining agreement within the U.S. Government on an alternative course of action to present contingency plans for discussion with the British, French and the Germans. The recommended course of action together with fallback position for use with the British and French initially, and subsequently with the Germans, is set forth in Tab A.
3. At an appropriate point NATO consultation should take place in order to obtain the support of the NATO countries.

(Prepared by State-Defense-JCS Working Group)

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TAB "A"RECOMMENDED COURSE OF ACTION

A possible alternative which should be considered as a matter of urgency is the following:

A. That the three Ambassadors in Moscow inform the Soviet Government urgently (if possible before concrete steps are taken to implement Khrushchev's threat):

(1) That the Three Powers continue to hold the USSR fully responsible under quadripartite agreements and arrangements concerning Berlin;

(2) That the Three Powers have taken note of Soviet statements to the effect that the USSR will withdraw from its remaining occupation functions with respect to Berlin and that they assume this means the Soviets intend to withdraw Soviet personnel from the interzonal Autobahn and railway checkpoints and from the Berlin Air Safety Center;

(3) That the Three Powers' right of unrestricted access would remain unaffected by the Soviet withdrawal;

(4) That the Three Powers would not tolerate an attempt on the part of the so-called GDR to assert any control over or to interfere with their traffic to and from Berlin via quadripartitely established routes, and would take all measures necessary to protect their rights in this connection.

(5) That, if the Soviets withdraw, Western Powers will act on the assumption that the USSR has decided:

(a) to abolish unnecessary administrative procedures at the interzonal borders, and

(b) that it can and will, without the benefit of exchange of flight information in BASC, maintain absolute separation of its aircraft and of all other aircraft flying in the Soviet Zone from the aircraft of Three Powers flying in the Berlin area.

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(6) That ~~the~~ Western Powers will expect their traffic to move freely without any presentation of documents or other formalities at the interzonal borders and will assume that the Soviets have given a blanket assurance of the safety of all flights of the aircraft of the Three Powers in the Berlin corridors and control zone.

B. Consideration might be given as to whether recourse should be had to the Security Council or to some other international body.

C. That we attempt, if Soviet personnel are then withdrawn from the checkpoints, to send through both military trains on the normal schedule as well as an uncovered convoy on Autobahn and that we instruct the commanders to refuse to present any documentation to GDR checkpoint control officials or to comply with any formalities suggested or instructions given by the latter. (If the first uncovered convoy goes through, a subsequent attempt could be made to send through a convoy containing some covered vehicles.)

D. If the GDR checkpoint personnel refuse to permit the passage of our trains and convoys on this basis, that we terminate military train and convoy operations and interrupt all other Allied Autobahn traffic.

E. An attempt to reopen access through the use of limited military force should be made at this point. (This action would be omitted under the fallback position specified in points F and G, below. However, points F and G might also be applicable in the event that initial action by force failed.)

F. That we arrange to make available on a permanent basis sufficient aircraft to transport all Allied official personnel and also their goods formerly transported via military trains and trucks which could not be procured locally in Berlin or transported by German carriers. (This would mean instituting

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G. As a concomitant to the above course of action, we should consider whether the Three Powers should not take some additional step to guarantee their unrestricted air access to Berlin, which would be essential to maintaining the status and security of the city. The Three Powers might, for example, reformulate and restate their Berlin guarantee, modifying it to add that they will regard any interference with their right and practice of unrestricted access to Berlin by air, including the operation of their civil air carriers, as an attack upon their forces and upon themselves. Communist harassment of our air access, which would be possible only through a patent application for force, would be clear evidence of a provocative intent. If it occurred, we could then take drastic counter-action to maintain Berlin, even at the risk of war, with fair assurance that such action would have the support of American, French, British and German public opinion.

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WITHDRAWAL OF SOVIET PERSONNEL FROM RAILWAY AND
AUTOBahn CHECKPOINTS AND CURRENT CONTINGENCY PLANS

I. Statement of Problem

An immediate problem which we expect to confront if the Soviets relinquish their occupation functions with respect to Berlin will be created by the withdrawal of Soviet personnel from the railway and Autobahn checkpoints and the attempt of GDR personnel to assert control over our movements. Generally speaking, we can react to such a development in one of the following ways:

a. By submitting to GDR controls and attempting to prevent these controls from being made more stringent than those now exercised by the Soviets;

b. By refusing to deal with the GDR, foregoing further use of military trains or of the Autobahn, and putting into operation a "miniature airlift" to transport Allied personnel and those goods required by the occupation forces which cannot be procured in Berlin or brought in by German carriers; or

c. By refusing to deal with the GDR and attempting to maintain our right of unrestricted access via the surface routes without GDR controls by military force.

II. Existing Contingency Planning

Tripartite contingency planning agreed on at the Government level in 1954 and confirmed on the working level in Bohn at the end of 1957 provides that we would act as follows if Soviet personnel removed from the railway and highway checkpoints and our trains and vehicles would not otherwise be allowed to pass:

a. We would deal with GDR officials on the same basis we now deal with the Soviets;

b. We would inform the Soviets we still hold the USSR responsible for our unrestricted access to Berlin;

c. We would refuse to comply with any GDR controls more stringent than those exercised by the Soviets.

(An extract from the enclosure to despatch No. 1075 from Bonn of December 18, 1957, which contains the detailed plans, was distributed to the ad hoc committee November 21.)

III. Rationale of Existing Planning

The rationale of the existing planning was the following:

a. It would provide at least a temporary situation, for our traffic between Berlin and West Germany would continue. We should thus get a "breathing space" to propose for any attempts of the GDR to assert more stringent controls.

b. By continuing to insist on the principle of Soviet responsibility at the same time we dealt with GDR officials in practice, we might be able to maintain that we considered the GDR officials only as agents of the Soviets.

c. Since the Communists can physically stop our traffic, our refusal to deal with GDR officials would lead to an interruption of our surface access. Our approved national policy on Berlin contains the outline of a contingency plan to deal with harassment which seriously impedes our access, a plan which contemplates a series of diplomatic demarches and military preparations culminating in the use of limited military force. The use of force (to which the British and French have in the past refused to commit themselves) involves a risk of general war. In view of this risk, we should have to be certain, before undertaking the steps contemplated for dealing with a blockade, that we would have the support of

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popular opinion in the U.S., the U.K., France, and Germany. Such support would not be forthcoming, however, in a situation in which we had in effect "blockaded ourselves" over what the public would view and the Communists would represent as a mere "procedural" issue, namely whether we showed our documentation to officials in East German uniforms or to officers in Soviet uniforms.

IV. Weaknesses and Disadvantages of Existing Contingency Planning

Recent developments, and further reflection in the light of these developments, lead to the conclusion that the contingency planning worked out in 1954 is now outdated and that serious difficulties may result if we are obliged to implement it at this time. The arguments which may be raised against implementing this planning may be summarized as follows:

a. The original rationale, as described above, is no longer very convincing.

1. The 1957 revision of the plans no longer refers specifically to the GDR personnel as "agents" of the Soviets. The objections to referring to an "agency principle" are that the USSR, the supposed principal, explicitly denies the existence of any agency relationship and that, if we were consistent in asserting that such a relationship did exist, we should have no basis for refusing to deal with the GDR on any other matter involving Soviet responsibility in Germany, including reunification.

2. The guidance on dealing with the Berlin access problem contained in our approved national policy was necessarily influenced by the experience of the 1948-49 blockade and anticipated that problems of access would arise as a result of direct harassment of all Berlin traffic. The Soviets' grant of "sovereignty" to the

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GDR has however created a situation in which harassment can be limited to Allied traffic only and can take a more subtle form. It no longer seems appropriate to discuss the situation which we may soon be facing in terms of a "self-imposed blockade." On the one hand, a "blockade" would not be involved; on the other hand, the political issues underlying the threatened Communist action appear to be fairly clearly recognized by public opinion, which might not regard the interruption of Allied surface traffic as "self-imposed" and unnecessary.

b. Dealing with the GDR to the extent envisaged in our present contingency plans runs counter to our current policy regarding Germany and would tend to undermine the Western position that the USSR remains responsible under four-power agreements concerning Berlin and Germany as a whole. Although a legal case can be made that de facto dealings with GDR checkpoint officials do not connote recognition, the psychological repercussions would be strongly adverse. The GDR has been the "least recognized" of all the entities not accorded recognition by the United States, and we have wherever possible refused to have anything to do with GDR representatives.

c. It would probably not be possible to prevent the GDR from proceeding to exercise increasingly stringent controls over our traffic except by resort to force. We should have to expect a series of additional control measures, no one of which would provide a suitable occasion for a showdown on the basis of the considerations set forth in III, above. We should thus be obliged gradually to make one concession after another, and with each concession the position of the GDR would become more entrenched while our position would become more vulnerable. The thinking of the British, which

assumes that we shall eventually have to extend diplomatic recognition to the GDR in response to pressures on our access to Berlin, illustrates the difficulty of attempting to draw a line. The end result could be that our position in Berlin would be untenable or that our remaining in Berlin would become purposeless.

d. Our dealing with the GDR would have a serious adverse effect on German opinion. We have already had expressions of concern on this score from Foreign Minister von Brentano, Bundestag majority leader Krone, and Governing Mayor Brandt of Berlin. Such action on our part would be seen as an abandonment of the established Western position regarding the German question and could trigger dangerous and unpredictable popular opinion trends in anticipation of further departures from the policy which the Western Powers and the Federal Government have followed in the past. The East German population might interpret such dealings as signifying the Western Powers' resignation to the inevitability of Communist rule over East Germany. USCINCEUR, our Embassy at Bonn, and our Mission at Berlin, on the basis of similar considerations, have all expressed the opinion that we should not deal with the GDR personnel at the checkpoints. It is clear from the statements of German officials and the German press, as well as from Ambassador Bruce's personal observations, that the Germans, from the Chancellor to the man in the street, expect the Three Powers to mount an airlift if necessary to overcome serious harassment of Berlin access and that they would be surprised and dismayed if we dealt with the GDR in preference to airlifting our own personnel and supplies.

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TAB "C"

IMPLICATIONS OF USE OF FORCE TO MAINTAIN
ALLIED ACCESS TO BERLIN
(prepared by Joint Staff-JCS)

BERLIN SITUATION

THE PROBLEM

1. To determine the implications involved should it become necessary to use military force to maintain allied rights and position in Berlin as set forth in current Quadripartite agreements.

ASSUMPTIONS

2. The Soviets intend to hand over to the GDR those functions in Berlin which are now reserved for Soviet organs.

3. The United States, United Kingdom and France have agreed that they will not recognize the alleged legal right of the GDR to take over Soviet functions which were mutually agreed to by the occupying powers.

4. Despite allied objections the Soviets may eventually impose through the GDR unacceptable restrictions, or partial, or complete blockade of Berlin directed principally at the Allied garrisons in Berlin.

5. Declarations of allied intentions to use military force will be made to the Soviets prior to the use of military force.

FACTS BEARING ON THE PROBLEM

6. Allied ground forces in Berlin comprise approximately 11,000 men as follows:

United States - two battle groups and a tank company (4200); United Kingdom - three infantry battalions and a tank company (2700); French - two infantry battalions (1000); and the West Berlin Police force (3000). Soviet and GDR ground forces in Germany total approximately 501,000 men

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Vicinity of Berlin - 4 Soviet divisions (38,500) and the East Berlin police force (3000); East Germany - 20 Soviet divisions (315,000) and 7 German divisions (145,000).

DISCUSSION

7. The relative strengths listed in paragraph 5 above clearly indicate that the use of only the allied forces in Berlin to maintain continuous free access to Berlin in face of determined opposition is not feasible. The military forces available to CINCEUR, together with additional forces which could be made available to him, are adequate to maintain the Allied rights and position in Berlin if opposed only by GDR forces. Such engagement of forces is unlikely, however, in view of the defeat this would entail for overall Soviet objectives, and would therefore probably lead to general war. However, an examination of overall friendly and enemy orders of battle available for early reinforcement of the forces in paragraph 6 reveals no change in relative strengths in favor of the U.S. Therefore, it is not militarily acceptable to commit a large proportion of U.S. forces in Europe to a fight for continuous free access to Berlin if a general war appears probable. This would only lead to maldeployment for general war and to the risk of losing the forces without accomplishing the purpose at hand.

8. In view of the above the allied course of action most likely to succeed is to convince the Soviet that the allies are determined to maintain their position in Berlin to the extent of engaging in general war if required. The courses of action open to the Soviets in face of this allied position are:

- a. Back-down in face of the threat of allied force.
- b. Support the GDR in employing harassing tactics to impede Allied access to Berlin.

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c. Oppose allied forces with GDR forces only, reinforcing them covertly with "volunteers" or Soviet forces.

d. Engage allied forces with Soviet forces in a general war.

9. It appears probable that the Soviets do not desire general war at this time and therefore would not risk it to attain their objectives in Berlin. Accordingly it seems likely that they would discard the latter two courses of action because either could lead to general war. It should be noted that if the Soviets do not back down and subsequently support determined military opposition the situation could rapidly develop into general war. Appropriate measures should then be taken by the allies to attain a high state of national readiness, to include preparation for mobilization prior to the use of force.

10. Subsequent to our declaration of intent to use force if necessary, but prior to the use of such force, certain actions should be taken by the allies or by the United States unilaterally to manifest our intentions; for example:

a. Alert allied forces.

b. Redeploy ground and air units to optimize employment of forces in Germany.

c. Cancel passes and leaves.

d. Simulate operational traffic on tactical radio nets where necessary.

11. Allied participation in any military action in this situation is essential. It will also indicate a significant allied solidarity and will offer a greater chance to gain Soviet recognition of allied determination not to relinquish right of access to Berlin. In the event the allies do not support military action in this situation some of the

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- a. Probable requirement for an airlift.
- b. Probable necessity for some form of recognition of the GDR.
- c. Furtherance of Soviet objectives.
- d. Deterioration of the NATO alliance for the long term and increased measures for withdrawal of the allies from Berlin.

12. In summary it is concluded that:

- a. A firm declaration should be made now by the United States and allies that we do not intend to recognize or deal with the GDR, that we will not allow the GDR to impede the exercise of any rights we presently hold, that we will not accept any control by the GDR over our movements to and from Berlin, and that we will use force if necessary to enforce our rights.
- b. The United States does not have the military capability to enforce continuous access to Berlin or the maintenance of our rights there.
- c. A convoy supported by appropriate force should be utilized to test GDR intentions and to force the issue promptly at the time of turn over of control of Berlin to the GDR by the USSR.
- d. The use of force will not necessarily insure continued access to Berlin or the maintenance of our rights in Berlin since rail and road communications can otherwise be disrupted.
- e. If a decision is made to use continued force beyond that necessary to test intentions, appropriate measures should be taken by the Allies to attain a high state of national readiness to include preparation for the initiation of appropriate mobilization measures.

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f. The use of force could possibly result in general war; however, it appears unlikely that the Soviets would risk general war to attain their objectives in Berlin.

g. Allied participation in any military action in this situation is essential.

A MINATURE AIRLIFT

I. General Considerations

One course of action, which does not necessarily exclude others, although it would affect the timing and results of such other action, is a miniature airlift.

It is estimated that, because of the stockpiles of food, fuel and other necessities in Berlin, and because, for the present at least, it is probable that access for West German persons and goods will remain unaffected by increases in GRD controls, only a small airlift would be required. Reports from Berlin estimate the total amount required as approximately 100 tons a day, of which only 46 tons would be required for the United States forces. This amount would be less than 1 per cent of the high point of the 1948-49 airlift. Most of the heavy or bulky goods now transported by train could be procured locally.

With an airlift of a few flights a day, which could also bring into the city some supplies for the Berlin population for symbolic reasons, the problem of bad weather flying and radar direction would not apply.

It is possibly assumed that at some stage an airlift by cargo planes might be accompanied by fighter planes.

The arguments in favor of an airlift are mainly:

1. It would provide a breathing spell during which other measures could be developed.

2. It is expected by the Berliners and by most Germans and would therefore be held as a fulfillment of a pledge by the Western Allies - failure to act in this way might result in panic in Berlin unless there were a successful show of force.

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3. Even a small airlift would probably be considered as dramatic evidence of Allied determination to remain in Berlin by many in the free and in the Communist world.

4. It has been well prepared and could be put in operation quickly.

5. It is presumed to involve less risk than certain other courses of action, while showing firmness.

6. It can be combined with other measures or be a precursor to other action.

The arguments against an airlift are mainly:

1. It is possible that in some quarters in the free world, and in the Communist world it would be regarded as a sign of defeat or desire to avoid stronger action.

2. There would be considerable risk of an incident involving the same kind of grave dangers as a surface incident.

3. An airlift demands some resources in planes thus reducing resources for other purposes.

4. An airlift can only be terminated by recourse to other measures such as a test incident, a conference, or other solutions each of which might be considered without an airlift if time permits.

II. Military Aspects (Prepared by Joint Staff - JCS)

THE PROBLEM

1. To determine the implications of a Berlin Airlift in support of Allied military forces in Berlin.

DISCUSSION

2. Latest information on stock status of supplies in Berlin Command (U.S.), is as follows:

Class I

- 150 days authorized and on hand (except perishables).

Class III

Class III

- Mogas - 360 days authorized and on hand.
- Other POL products - 120 days authorized and on hand.
- Solid fuels - 1 year supply (70,000 tons).

Class V

- 20 days supply at combat rates.

3. No significant shortages exist in Berlin Command (U.S.).

4. Best information available on British and French personnel in Berlin is that in numbers their combined total is approximately equal to that of the U.S. forces and that the stockpiles maintained by the British and French forces are equal to or greater than those of the U.S. garrison.

5. CINCUSAREUR has reported* that the Berlin airlift plan provides for 50 tons daily for U.S. Berlin Military Command which is considered adequate for perishables as well as other emergency requirements. It is estimated that 50 additional tons daily would provide for British and French forces. The above would not include replenishment of stockpiles.

6. During the 1948-1949 Berlin Airlift Operation requirements reached a peak of 763 tons per day to support the United States, British, and French military. This represents best available information as to total requirements for full resupply of military forces.

7. Headquarters USAFE Operations Plan 5-57 Berlin Airlift (Reduced), dated 18 March 1957, in support of Headquarters USEUCOM Plan (Berlin) 12-55, is based on utilizing theater assigned transport aircraft (1 wing C-119s; 1 Wing C-130s; 1 Squadron C-124s). This plan is not current as it does not reflect the phase-out of the C-123 aircraft and the introduction of the C-130 aircraft. Otherwise, the plan is valid and establishes L-day as the day flight operations start and provides for the following

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phased capability into Berlin, which will also meet the outbound requirements. See Annex "A" for Tabulation of Assigned Theater Transport Aircraft Capability.

<u>Time Period</u>	<u>Average Daily Tons, Lifted</u>	<u>Tons per Month</u>
L to L/3	800	
L thru L/30	1,000	30,000
L/31 thru L/60	1,520	45,600

If necessary, augmentation of the transport aircraft in the theater could be made from MATS. For example, the addition of 30 C-124s would provide a homogeneous transport fleet with a capability of lifting 1,520 tons per day (45,600 tons per month), and would free the C-130s and C-119s for normal intra-theater use.

8. Capability for interference with this airlift operation could include:

a. Withdrawal of Soviet participation in the Berlin Air Safety center with resultant implication in the safety of Allied air operations in the corridor airspace, i.e., Employment of Soviet fighter aircraft in harassing tactics against Allied transport aircraft within the corridor airspace.

b. Use of communications jamming or electronics countermeasures against navigation and air traffic control.

CONCLUSIONS

9. Present stock status of Allied forces in Berlin is excellent. There are no significant shortages.

10. There is adequate intra-theater airlift immediately available to supply perishables and emergency requirements of Allied forces in Berlin.

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11. CINCUSAFE plan which provides for a build-up of tonnage delivered to 1,520 tons per day is in excess of the expected requirement for full resupply of the Allied military forces in Berlin.

12. There are no logistical implications which would preclude an airlift resupply of Allied forces in Berlin.

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ANNEX "A"

CAPABILITY* OF USCINCEUR ASSIGNED THEATER TRANSPORT AIRCRAFT

			Daily Capability Tons Under Various Utilization Rates					
			(2 Hrs)		(4 hrs)		(6 hrs)	
No	Type	Payload	Trips	Tons	Trips	Tons	Trips	Tons
12	C-124	25	7	175	14	350	21	525
48	C-130	17	28	476	56	952	84	1428
48	C-119	8	<u>25</u>	<u>200</u>	<u>50</u>	<u>400</u>	<u>75</u>	<u>600</u>
			60	851	120	1702	180	2553

* Based on assumption aircraft will operate from the Frankfurt, Wiesbaden Area.

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TAB "E"

LEGAL IMPLICATIONS OF SOVIET RENUNCIATION OF RESPONSIBILITYBackground:

Vis-a-Vis Germany, the Allies were entitled to occupy, and assumed the right to occupy, all of Germany on the basis of the total defeat and surrender of that country. By formal agreements between the principal Allies, their respective shares in the common right were defined.

The Protocol on the Zones of Occupation in Germany and the Administration of Greater Berlin, signed 12 September 1944 (5 U.S.T. 2078) provided in Article 1:

"Germany, within her frontiers as they were on the 31st December, 1937, will, for the purposes of occupation, be divided into three zones, one of which will be allotted to each of the three Powers, and a special Berlin area, which will be under joint occupation by the three Powers."*

In Article 2 it was provided:

"The boundaries of the three zones and of the Berlin area, and the allocation of the three zones as between the U.S.A., the U.K. and the USSR will be as follows: [defining them]".

This agreement was amended on 26 July 1945 to provide for the admission of France and a readjustment of the sectors to accommodate her (5 U.S.T. 2093).

Our position as an occupying power in Berlin still exists. Nothing was done in 1955 when the Federal Republic of Germany became sovereign, or at any other time, which affected our status in Berlin. While there is a tripartite statement of principles for Berlin, which is a rough equivalent of the former Occupation Statute in the Federal Republic, the occupation authority of the Three Western Powers is still maintained, even though we agreed to limit its use very drastically.

It should be noted that our rights in Berlin stem from this document of August 1, 1945.

The history of the agreements, expressed and implied, between the Soviet Union and the United States regarding the right of the United States to have access to Berlin by auto, by rail, and by air, is involved and complicated. It will suffice for the present paper to state that such rights have existed at all times since the beginning of the occupation of Berlin by U.S. troops. They have been recognized by the Soviets (except for the period of the blockade) and of course have never been challenged by the Germans in the Eastern Zone. Access via rail and autobahn has been over certain agreed paths on which checkpoints have been operated by the Soviets. Upon presentation of certain documentation, official travel by these paths has been permitted to pass without challenge (except for sporadic incidents). A Soviet official has participated in the quadripartite operation of the Berlin Air Safety Center in Berlin, which controls flights in and out of that city.

Assumptions:

This paper assumes that the Soviets will withdraw their personnel from the checkpoints on the autobahn and rail lines utilized by the United States for its official travel to and from Berlin, and will withdraw its representative from the Berlin Air Safety Center in Berlin. It is also assumed that we will not permit a representative of the GDR to participate in the Air Safety Center and that we will not submit to measures by GDR representatives which would restrict the official autobahn and rail traffic over the agreed paths.

Discussion:

1. The Soviets may, of course, employ Germans to carry out administrative functions in the operation and control of the railroad and the autobahn. They could indeed make the GDR personnel their agent for this purpose. Our dealing with the

Germans in such capacities would not involve recognition of the GDR. As far as Governmental responsibility is concerned, the Soviet Union would still be the responsible power.

2. The Soviets cannot without our consent delegate to the GDR their responsibilities as an occupying power in matters relating to Berlin. As the agreed paths of our access to Berlin passed through the Soviet Zone, the Soviets were responsible for ensuring that our rights of access remained unimpaired. They may not now relieve themselves of this responsibility by delegating it to the GDR. This would be true of any attempt at substitution of another obligor without consent, but is particularly true in the case of the GDR since the Germans in the Soviet Union are still technically an occupied population from our point of view.

3. The Four Powers have been in occupation of Berlin not by any agreement with Berlin or with Germany but by virtue of the conquest and unconditional surrender of Germany. By force of arms we acquired our rights. The consent of the Germans was in no way required or obtained.

At the conclusion of the fighting each of the armies might have stood on the ground which it was then occupying. Instead of doing so, they entered into the European Advisory Commission agreements, which allotted Zones of Occupation and provided for joint occupation of Berlin. Accordingly, at the end of the war the armies moved to their allotted areas of occupation, including the appropriate sectors of Berlin. As Berlin was entirely surrounded by the Zone allotted to the Soviet Union, the right of access of the other three Occupying Powers to Berlin necessarily had to be assured by the Soviets. It is this responsibility that the Soviets are now seeking to avoid and it is this right of the three Occupying Powers that is in jeopardy. By unilaterally withdrawing from its position as an Occupying Power,

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the Soviet Union has created a vacuum in the Occupation arrangements. If no one interferes with our right of access, there is no problem. On the other hand, if there is harassment or interference or threat of the same, it would seem that general principles applicable to joint operations would apply. When one party drops out, the remaining parties are entitled to fill the vacuum at least to the extent necessary to protect their rights.

It would therefore seem that, under such circumstances, the United States, the United Kingdom and France might properly take the position that in view of the Soviet withdrawal and renunciation of their obligations the Western Occupying Powers are entitled to take over the control of the autobahn to the extent necessary to ensure proper access to Berlin. The same principle would apply to the railroad and to control of air traffic between the Federal Republic and Berlin.

L:JMRaymond/dw 11/26/55

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S E C R E TTAB "F"MILITARY IMPLICATIONS OF ALLIED ASSUMPTION
OF SOVIET OBLIGATIONS FOR ALLIED ACCESS TO BERLIN

J-3 position paper on the military aspects of supporting by military action a legal theory that Soviet rights in Berlin, expressed under quadripartite agreements, would be inherited by the United States, United Kingdom and France in the event of total Soviet relinquishment of these rights to the GDR.

THE PROBLEM

1. To determine the practical military aspects of supporting, by military action, a legal theory that Soviet rights in Berlin expressed under Quadripartite agreements would be inherited by the U.S., U.K. and France in the event of total Soviet relinquishment of these rights.

ASSUMPTIONS

2. The United States, U.K. and France will adhere to the view that they legally inherit all rights and obligations in Berlin if these rights are relinquished by the Soviets to the GDR.

3. The Soviets may consider any military action against GDR forces as an attack on the USSR and back the GDR with military force.

4. Additional assumptions as set forth in Tab C.

DISCUSSION

5. Air Access - Allied rights in Berlin include uninterrupted operation of the Berlin Air Safety Center (BASC), located at the Tempelhof Airport in West Berlin. If the Soviets withdraw and GDR representatives attempt to take part in, or hinder, the operation of BASC, simple ejection of the GDR representatives from the center and from West Berlin would probably make continued operation of BASC feasible. Continued Allied air traffic to and from Berlin

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6. Rail Access - Continued operation of the railroads, in the event the GDR seriously attempts to disrupt it, would present a very difficult problem. Rail movements are already under effective East German operational control; if this were challenged by force rails could be cut or rail bridges blown at almost any point in East Germany. Accordingly it is not considered militarily feasible to expend the large military effort required to maintain continuous rail access to Berlin. In addition, any premature action here is undesirable since most of the supplies for the U.S. garrison in Berlin are carried by rail and the chances of success in maintaining this route of access are negligible.

7. Road Access - Maintenance of road access to Berlin appears to be the crux of the problem. The following courses of action are possible within the context of this problem to maintain the allied right of road access to Berlin.

a. Disregard GDR checkpoints and use force if necessary to maintain access to Berlin.

b. Seize established checkpoints and defend the allied operation thereof.

c. Establish "symbolic" allied checkpoints adjacent to GDR checkpoints to perform previous Soviet functions and defend them with token forces.

d. In conjunction with a, b, or c above, outpost bridges, defiles and obstacles on the autobahn, patrol the autobahn, and take any other military action required to protect convoy operation on the autobahn.

8. Consideration of Courses of Action - The courses of action indicated in paragraph 7 above would lend visible support to the legal theory outlined in the problem. However, the courses of action set forth in paragraph 7 above if contested by determined opposition would require the employment of additional allied military forces. As stated previously in Tab C position paper

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the use of allied force will not necessarily insure continued access to Berlin or the maintenance of our rights in Berlin. The course of action set forth in subparagraph 7c above, may have greater legal or political value in this situation since it does not necessarily involve the employment of allied military force against the GDR. However, the mere establishment of symbolic checkpoints does not guarantee allied access to Berlin.

CONCLUSION

9. The courses of action set forth in paragraph 7 above would lend visible support to the legal theory outlined in the problem.

10. Courses of action set forth in paragraph 7 above are not feasible if resisted by determined forces since they would then involve the use of allied military force which would not necessarily insure continued access to Berlin.

11. Course of action set forth in subparagraph 7c above may have more legal or political value than the other courses of action, but will not insure continued access to Berlin.

12. Each of the courses of action herein, if supported with Allied military force against determined opposition, leads to the situation examined in Tab C and the conclusions therein are applicable here.

13. None of the courses of action herein is suitable as a true test of Soviet intentions from a military point of view.

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TAB "G"

PROSPECTS FOR NEGOTIATION WITH THE USSR REGARDING GERMANY

THE PROBLEM

To make an offer to negotiate with the Soviet Union parallel to the adoption of a firm assertion of our rights in Berlin.

DISCUSSION

The desirability of accompanying a demonstration of Western determination to maintain their rights in Berlin by force if necessary by a proposal to the USSR for high level negotiations on the German problem as a whole has been endorsed by Ambassador Thompson, Whitney and Houghton, and General Norstad. At the working level at the Quai d'Orsay it is felt that such a proposal should be made only after the West actually demonstrates willingness to use force.

In considering the desirability of a Western offer to negotiate it is assumed:

- (a) We will demonstrate the will to enforce Western access to Berlin.
- (b) We will not deal with the East German regime.

There appears to be no possibility of profitable negotiations on Berlin access alone. The Soviets would not negotiate to confirm our rights and we will not negotiate with the East Germans. The Government of the German Federal Republic has expressed the view that if the Western Powers decide to negotiate on the status of Berlin, this should be done only in a Four Power context and as a political offensive encompassing far reaching demands.

The alternatives to negotiations concerning Berlin would be:

- (a) Negotiations on the German problem.
- (b) Negotiations on Germany and European security.
- (c) Summit negotiations in which Germany and European security be one general topic.

We have offered to negotiate a settlement of the German problem on the basis of reunification through free elections. The Soviets insist that the two German "states" must negotiate reunification and that the role of the Four Powers is to negotiate a peace treaty and work out with the Germans the future political, military and economic status of a unified Germany.

The West has repeatedly offered to provide proposals for general European security arrangements to afford security guarantees to the USSR in return for its acceptance of a fully sovereign, unified Germany, under a freely elected government. These proposals generally involve some form of limitations of forces and arms in a reunified Germany and guarantees against possible future aggression by her. These proposals have never been spelled out in detail owing to the absence of any indication from the Soviets of a willingness to negotiate. Efforts to arrive at an agreed US-UK-French-West German position on specific proposals to serve as the basis for an initiative in the field of negotiations and to strengthen the public posture of the West on the problem have been unsuccessful. These efforts are stalled at present owing to the German unwillingness to agree to the Outline Plan (Annex A) discussed in the Four Power Working Group on Germany. This attitude is based on the feeling that Germany should be an equal NATO partner in a military as well as any other sense.

The Soviets have endeavored to consolidate the Communist system in East Germany as well as in Eastern Europe and to improve their strategic position in general by putting forth a number of proposals concerning disarmament and European security. These include proposals for withdrawal of foreign troops from Germany, the denuclearization of Germany, Poland and Czechoslovakia, aerial inspection against surprise attack in Central and Western Europe.

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The Mayor of West Berlin has suggested that the Geneva talks on test suspension and surprise attack be broken off as a means of exerting pressure on the Soviets.

The US-UK-and France most recently proposed the convening of Four Power talks on Germany in a note to the Soviet Union on September 30, 1958.

The German Federal Republic replied to a Soviet proposal for Four Power negotiations on November 17, 1958.

RECOMMENDATIONS

(a) That the proposal of the Western Powers to negotiate with the USSR on the German problem be reiterated in connection with a demonstration of the Western Powers to maintain their rights in Berlin by force if necessary.

(b) That notification of the impending use of force for this purpose be accompanied by an offer to negotiate new rights in Berlin on a far reaching basis.

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INTRODUCTORY MEMORANDUM AND OUTLINE PLAN
FOR GERMAN REUNIFICATION

The Directive issued by the four heads of government at the Geneva Conference of July 1955 contained two principal agreements on European Security and Germany. On the one hand, the Foreign Ministers were instructed to consider various proposals "for the purpose of establishing security with due regard to the legitimate interests of all nations and their inherent right to individual and collective self-defence." On the other hand, the heads of government recognised their common responsibility for the settlement of the German question and the reunification of Germany, and agreed "that the settlement of the German question and the reunification of Germany by means of free elections shall be carried out in conformity with the national interests of the German people and the interests of European security." So far these agreements have not been carried out.

Political tensions are the main cause of insecurity. The removal of these tensions can create the mutual confidence which is the essential condition of a lasting settlement. Such tensions arise from the existence of outstanding political problems. To be effective, measures in the field of security must be accompanied by the settlement of these political problems. The main political problem in Europe is the division of Germany. The governments of France, the UK and the US are ready to join in the establishment of security arrangements in Europe in connection with the solution of this problem.

For this purpose the governments of France, the UK and the US propose the annexed Outline Plan for German Reunification and European Security Arrangements. These arrangements would be included in two agreements. One, dealing with the reunification of Germany, would be concluded by the four powers responsible for this subject. The other would be an agreement on European security arrangements. This agreement would be concluded by the four powers and other governments concerned and would be adhered to

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by the all-German government after its establishment. These agreements, which would be concluded and would enter into force concurrently, would be implemented progressively in the manner indicated in the Outline Plan. They would be fully effective when the all-German government had itself acceded to the agreement on European security. They would provide the framework within which the reunification of Germany would take place, irrespective of any decisions made by the all-German government about its foreign policy.

In their proposals for the reunification of Germany, the governments of France, the UK and the US have been guided by the following basic principles. First, the German people should have the right freely to choose the government under which they are to live. This right should be exercised by means of free elections throughout the whole of Germany. Second, there should be no discrimination against a reunified Germany. The all-German government formed as a result of free elections should be free to choose its own foreign and domestic policies and would be responsible for the conclusion of the peace treaty.

The proposals of the three powers on European security arrangements envisage an interrelated set of arrangements designed, in conjunction with the settlement of political problems, to contribute to the creation of confidence and mutual security. The arrangements would include provisions for agreed levels of forces and armaments, which would be subject to effective measures of supervision and inspection. These levels should provide an appropriate balance which would contribute to the security of all the signatories. Special arrangements regarding deployment might be envisaged in certain frontier areas. The agreement would contain assurances against aggression and an undertaking to withhold support from aggressors. An important aspect of the agreement would be the provisions for consultation with respect to the implementation. (1)

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These proposals are in no way dependent on Germany becoming a signatory of the North Atlantic Treaty. Should the all-German government decide to adhere to this Treaty, the three powers would be prepared to join with the Soviet Union and any other parties to the European Security Agreement in additional mutual obligations. They would propose that each party should agree that an armed attack in Europe by any party, which is also a NATO member, against any party which is not a NATO member, or vice versa, would endanger the peace and security which is the object of this agreement, and that all the parties would then take appropriate action to meet that common danger.

In their present form, the annexed proposals are not more than an outline and the details will have to be worked out in negotiations. The three governments hope that the Soviet Union will accept the Outline Plan as a basis for such negotiations and will agree to the immediate appointment of representatives to draw up the necessary agreements. They are convinced that, if progress can be made on this basis, it will promote a European settlement which will contribute to the attainment of a just and lasting peace.

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OUTLINE PLAN FOR GERMAN REUNIFICATION AND EUROPEAN
SECURITY ARRANGEMENTS

The following is an outline of the plan for German reunification and the establishment of European security arrangements, details of which would be included in agreements to be negotiated between the powers concerned:

I.

Initial Security Undertakings in Europe

On entry into force of the agreements, each party would undertake:

- (1) to settle, by peaceful means, any international dispute in which it was involved with any other party;
- (2) to refrain from the use of force in any manner inconsistent with the purposes of the United Nations;
- (3) to withhold assistance, military and economic, to an aggressor; and
- (4) to consult with the other parties regarding the implementation of the agreements.

II.

All-German Elections

Three months after the entry into force of the agreements, free elections under international supervision would take place throughout Germany for an all-German national assembly.

III.

The National Assembly

The national assembly would proceed as quickly as possible with the drafting of a constitution and with the formation of an all-German government under it.

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Pending the formation of an all-German government the national assembly could set up a provisional all-German authority charged with assisting the assembly in drafting the constitution and with preparing the nucleus of all-German executive organs. The provisional all-German authority could initiate preliminary negotiations for a peace treaty.

The national assembly would determine how the powers of the Federal Government and of the authorities in the Soviet zone should be transferred to the all-German government and how the two former should be brought to an end.

IV.

Measures Against Surprise Attack (1)

[A system of inspection to guard against surprise attack would be established over an area in Europe which should be as broad as possible.]

V.

Levels of Forces and Armaments

At this stage provisions for levels of forces and armaments would be introduced. These provisions could not be effected until machinery for control and inspection had been established and the all-German government had acceded to the European security agreement. Further study is required as to the basis on which these levels would be established or the area in which they would be applied.

VI.

The All-German Government

The all-German government would have full freedom of decision in regard to internal and external affairs, subject to the rights retained by the four powers.

The all-German government would have all the rights of individual and self-defence recognised by the United Nations Charter.

The all-German government would be responsible for the negotiation and conclusion of the peace treaty.

The all-German government would have authority to assume or reject the rights and obligations of the Federal Republic and of the Soviet Zone of Germany under treaties of alliance and arrangements subsidiary thereto concluded by them. Provision could be made for the continuation in force of other treaties and agreements of the Federal Republic and the Soviet Zone pending their application to the whole of Germany or their denunciation or modification. (1)

General Provisions

(1) No party to the agreement on European security would continue to station forces on the territory of any other party without the latter's consent and, upon the request of the party concerned, any party would withdraw its forces within a stated period.

(2) [Whatever decisions the all-German government might take with regard to the international rights and obligations of the Federal Republic and the Soviet Zone of Germany, non-German forces stationed in Germany would not be advanced beyond the area in which they were stationed at the time of entry into force of the agreement on European security.]

[Should the all-German government decide to adhere to the North Atlantic Treaty, the three powers would be prepared to give an assurance that they would not advance their forces in Germany beyond the area in which they were stationed at the time of the

(1) The question of the continuation in force of other treaties is under study.

entry into force of the agreement on European security.7 (1)

(3) Pending the conclusion of a peace treaty and subject to (1) above, each of the four powers might exercise with respect to the national assembly, the provisional all-German authority and the all-German government only those of its rights which related to the stationing of armed forces in Germany, the protection of their security, Berlin, the reunification of Germany and the peace settlement(2).

(4) Decisions of the national assembly, the provisional all-German authority and the all-German government in fulfillment of the agreements would not require the approval of the four powers and could not be disapproved except with the agreement of all four powers.

In order to conclude agreements on the above lines, the governments of France, the United Kingdom and the United States propose that the four powers should appoint representatives:

- (1) To draft, in consultation with German experts, a German electoral law and to make recommendations for the supervision of the elections in order to ensure that they take place in conditions of genuine freedom.
- (2) to draw up together with representatives of other powers concerned a plan for the establishment of levels of forces and armaments, including measures for effective supervision and control; and
- /(3) similarly, to draw up a plan for the establishment of a system of inspection to guard against surprise attack.7

(1) If this formulation were adopted, it would be included in the introductory memorandum rather than the Outline Plan.

(2) Certain legal aspects of this paragraph continue under study.

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Separate groups should be set up for each of these purposes with instructions to submit their reports to the governments within a stated period. These reports would provide the basis for agreements on the reunification of Germany and on European security arrangements.